

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD R. HUENE
IN PROPRIA PERSONA
7429 N. VALENTINE
FRESNO, CA 93711
(559) 431-1639

Plaintiff,

v.

U.S. DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1111 CONSTITUTION AVENUE
WASHINGTON, DC 20224

and

SIU CHAN and ANTHONY SHELLEY
INTERNAL REVENUE SERVICE
2525 CAPITOL STREET, SUITE 204
FRESNO, CA 93721-2227

Defendants.

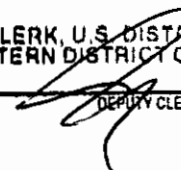
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CASE NO:

COMPLAINT FOR DECLARATORY
JUDGMENT AND FOR
INJUNCTIVE RELIEF

FILED

JUN 08 2011

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY  DEPUTY CLERK

COMPLAINT FOR DECLARATORY JUDGMENT AND FOR INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 (2009), for injunctive and other appropriate relief, seeking the release of Internal Revenue Service agency records requested by the plaintiff, Donald R. Huene from the Internal Revenue Service, United States Department of Treasury.

Jurisdiction and Venue

2. The Court has subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B) (2009) and 5 U.S.C. § 552(a)(6)(C)(i) (2009). This Court also has

1 jurisdiction over this action pursuant to 28 U.S.C. § 1331 (2009). Venue is
2 proper in the United States District Court for the Eastern District of
3 California under U.S.C. § 552(a)(4)(B) (2009).
4

5 Parties

6 3. Plaintiff Donald R. Huene is a private individual appearing in
7 propria persona and is proceeding to obtain documents to assist in an
8 Internal Revenue Service audit.

9 4. Defendant United States Department of the Treasury is an agency
10 established by the Executive Branch of the United States Government. The
11 Internal Revenue Service is an agency within the meaning of 5 U.S.C. §
12 552(f)(1) (2009).

13 5. Siu Chan and Anthony Shelley are agents for the aforementioned
14 agency, Internal Revenue Service and are in possession of many of the
15 requested documents.

16 6. There are also other potential defendants who are agents of the
17 aforementioned Internal Revenue Service whose responsibility is the
18 supervision and direction of Siu Chan of the aforementioned Internal Revenue
19 Service. The identity of these agents has been concealed from plaintiff.
20 The plaintiff will amend seek leave of the Court to amend these pleadings
21 when their identities have been determined.
22

23 Facts

24 7. Defendant Internal Revenue Service has previously audited
25 plaintiff on schedule F filings. Defendants have opted to renew this
26 examination and have requested many documents including the previous 12 years
27 of tax returns and other items which were already in their possession and are
28 subject to a FOIA request.

1 On 21 March 2011, plaintiff formally requested all documents in their
2 possession concerning plaintiff from previous tax filings including the
3 previous 12 years of tax returns, the results of previous audits, and all
4 documents and other instructions in their possession relating to the present
5 audit. They were notified of the 20 day time deadline to respond pursuant to
6 5 U.S.C. § (a)(6)(A)(i) and 552 U.S.C. (a)(6)(A)(ii) and U.S.C. 5 (a)(6)(C).

7 On 21 March 2011, plaintiff requested the identification of the
8 supervisors and others that make decisions regarding release and
9 identification of the previously requested information. This has not been
10 responded to and has rather been ignored in its entirety.

11 On 23 March 2011, plaintiff again requested prompt response to their
12 request. This was in response to a second letter from defendants.
13 Plaintiff, in a letter of 6 April 2011, again requested identification of
14 others that would be responsive to the FOIA request to avoid the need to
15 supplement the USCD-EDCA originally-filed pleading. Plaintiff also noted
16 that pursuant to 5 U.S.C. § 552 (a)(6)(A)(i) and 5 U.S.C. § 552 (a)(6)(A)(ii)
17 the defendants had at that time extinguished over one-half of the statutorily
18 prescribed 20 day time limit. The plaintiff again requested that defendants
19 respond to the previous and hereinbefore mentioned FOIA request. Plaintiff
20 granted an extension to June 6, 2011 (77 days after the original request) but
21 has never received any of the requested documents.

22 The defendants failed to make a determination regarding plaintiff's
23 FOIA request, failed to disclose any documents or any response whatsoever
24 within the statutory 20 day time deadline pursuant to 5 U.S.C. § 552
25 (a)(6)(A)(i) (2009) and 5 U.S.C. § 552 (a)(6)(A)(ii) (2009) and have failed
26 to respond in any manner.

27 Count I

28 Violation of the FOIA: Failure to Comply with Statutory Deadline

1 8. Paragraph 1-8 are hereby incorporated by reference as set forth
2 fully herein.

3 9. The defendant have violated the statutory deadline imposed by the
4 FOIA including deadlines of 20 days as set forth under 5 U.S.C. § 552
5 (a)(6)(A)(2009), 5 U.S.C. § 552 (a)(6)(A)(i) (2009) and 5 U.S.C. § 552
6 (a)(6)(A)(ii)(2009).

7 10. Plaintiff is entitled to injunctive relief compelling the release
8 and disclosure of all the requested documents.

9
10 Requested Relief

11 WHEREFORE, plaintiff prays that this Court:

- 12 A. order defendants to conduct an adequate search for the agency
13 records responsive to plaintiff's FOIA request with five working
14 days of the date of the Court's order in this matter with such
15 search including but not limited to all sites at which defendants
16 maintain plaintiff's records.
- 17 B. order defendant to produce all responsive agency records within
18 10 days of the Court's order in this matter.
- 19 C. award plaintiff its costs and reasonable attorney's fees incurred
20 in this action pursuant to 5 U.S.C. § 552(a)(4)(E)(2009).
- 21 D. grant such and other further relief as the Court may deem just
22 and proper.

23 Respectfully submitted,

24
25 By: Donald R. Huene
26 Donald R. Huene
27 In Propria Persona
28 7429 N. Valentine
Fresno, CA 93711
(559) 431-1639